

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

MELISSA DOLEN PENN,)	
)	
Plaintiff,)	
)	
v.)	No.: 2:22-CV-129-KAC-CRW
)	
SULLIVAN COUNTY, et al.,)	
)	
Defendants.)	


ORDER ADOPTING REPORT AND RECOMMENDATION

This civil case is before the Court on United States Magistrate Judge Cynthia R. Wyrick’s “Report and Recommendation” (“Report”) entered on November 16, 2022 [Doc. 5]. On October 18, 2022, pro se Plaintiff Melissa Dolen Penn filed an Application to Proceed In Forma Pauperis [Doc. 1] along with her Complaint that she has since amended [See Docs. 2; 4]. Judge Wyrick recommends that this Court deny Plaintiff’s Application because Plaintiff “reports having significant funds available each month after the payment of those expenses she currently pays,” and “her financial situation does not evidence poverty” [Doc. 5 at 2]. Plaintiff has not objected to the Report, and the time to do so has passed [See Doc. 5 at 2 n.2 (providing fourteen (14) days to file any objections to the Report)]. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

As Judge Wyrick analyzed in the Report [see generally Doc. 5], Plaintiff, who is employed as a registered nurse and has net income of over \$4,000 each month, pays less than \$3,000 each month in expenses, and therefore “has sufficient funds to afford payment of the costs of this cause” [See Docs. 1 at 2, 7; 5]. Plaintiff’s Application, completed under penalty of perjury, [See Doc. 1 at 10], does not establish that she “is unable to pay such fees or give security therefor,” 28 U.S.C. § 1915(a)(1). See *Gibson v. R.G. Smith Co.*, 915 F.2d 260, 263 (6th Cir. 1990);

Henderson v. Pappas Trucking LLC AG Container, No. 21-CV-2088, 2021 WL 2003986, at *2 (S.D. Ohio May 4, 2021), *report & recommendation adopted by* 2021 WL 2003986 (S.D. Ohio May 19, 2021) (recommending denial of motion to proceed in forma pauperis where the plaintiff's application neither "demonstrate[d] his inability to pay" nor "that the cost of filing the instant matter is beyond [hi]s means"). Accordingly, having reviewed the record, the Court **ACCEPTS** and **ADOPTS** Judge Wyrick's Report [Doc. 5] under 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b)(2) and **DIRECTS** Plaintiff to pay the \$400.00 filing fee in this case within **thirty (30) days** of the entry of this Order. A failure to timely pay the filing fee may result in the immediate dismissal of this action for failure to prosecute under Federal Rule of Civil Procedure 41(b). *See Rogers v. City of Warren*, 302 F. App'x 371, 375 n.4 (6th Cir. 2008).

IT IS SO ORDERED.


KATHERINE A. CRYTZER
United States District Judge